IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 6755 of 2007(D)

OS.87/2005 of MUNSIFF COURT, KALPETTA

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PETITIONER:

KOYA, S/O. MARAKKAR HAJI,
PAIKATTIL HOUSE, KURUVATTOOR AMSOM,
KONNOTT DESOM, KUNNAMANGALAM P.O.

BY ADV. SRI.G.SUKUMARA MENON

RESPONDENTS:

P.V. KUNHJU, S/O. VARKEY,
THENGANAMUGULATH HOUSE, THRIKKAIPATA P.O.,
THRIKKAIPATTA.

BY ADV. SRI.GRASHIOUS KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF PLAINT IN O.S.NO: 87/05 ON THE FILE OF THE COURT OF MUNSIFF, KALPETTA

EXT.P2: -DO- OF WRITTEN STATEMENT FILED BY THE PETITIONER IN O.S.87/05 ON THE FILE OF THE COURT OF MUNSIFF, KALPETTA

EXT.P3: -DO- OF ADDITIONAL WRITTEN STATEMENT SOUGHT TO BE FILED IN O.S.87/05 ON THE FILE OF THE COURT OF MUNSIFF, KALPETTA

EXT.P4: -DO- OF AFFIDAVIT IN RESPECT OF THE PETITION SOUGHT TO BE FILED IN THE COURT OF MUNSIFF, KALPETTA

EXT.P5: -DO- OF ORDER DT. 7.2.07 IN I.A.48/07 IN O.S.87/05 IN THE COURT OF MUNSIFF, KALPETTA

jj /TRUE COPY/

PA. TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 6755 OF 2007 D

Dated this the 9th July, 2007.

JUDGMENT

This writ petition is filed against the order of the Munsiff, Kalpetta in rejecting the prayer of the defendant to receive an additional written statement. The suit is based on Ext.A1 agreement and on the reverse of Ext.A1 which is marked as Ext.A1(a), the total supply is Rs.3,31,764/- out of which Rs.2,50,000/- is paid and the balance is Rs.81,764/-. It is alleged to be signed by the defendant and witnessed by two witnesses. Now the attempt of the defendant is to deny the entry in Ext.A1(a). This agreement was produced along with the plaint at the time of filing of the suit itself and even in the written statement in para 3 the defendant has taken care to deny the entries starting from 8.12.2003 to 6.11.2004. So, it is crystal clear that he was aware of these things even at the time of filing of the written statement. Thereafter, P.W.1 has been examined and cross-examined at length. Thereafter the present application is filed for making an amendment to the written statement. By allowing additional written statement to be filed at this stage it will take away a valuable right and further under Order VI Rule 17 CPC amendment of the written statement which is now filed and

styled as an additional written statement cannot be entertained after the commencement of the trial unless there are warranting circumstances to do so. This appears to be only an after thought when the defendant is confronted to face a difficult situation because of the endorsement behind Ext.A1 document, which is marked as Ext.A1(a). Therefore I find that the court below was perfectly justified in rejecting the application and therefore the writ petition is dismissed.

M.N.KRISHNAN
Judge

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